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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,120	09/25/2001	Marvin L. Schilling	BWS-00-07	9970

7590 03/31/2004  
BERND W. SANDT  
900 Deerfield Court  
Midland, MI 48640

EXAMINER

GOLLAMUDI, SHARMILA S

ART UNIT PAPER NUMBER

1616

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/964,120

Applicant(s)

SCHILLING ET AL.

Examiner

Sharmila S. Gollamudi

Art Unit

1616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

The changes to the claims require further search and consideration for the following reasons: Cancelled claim 39 was directed to a "method of dehydrating chicken cartilage" and recovering a protein. New claim 42, which corresponds to cancelled claim 39 is directed to a "method of dehydrating chicken cartilage containing Type II collagen" and recovering the specific protein (Type II collagen). This requires further search and consideration since cartilage contains other proteins and applicant has narrowed the claim to a specific protein. Further, applicant's change in new claim 42 requires that Type II collagen is not denatured whereas old claim 33 that corresponds to the instant claim, only required a temperature below which denaturation occurs without specifying the substance or protein type.

### ***Response to Arguments***

Applicant states that the claims are amended to overcome 112 rejections.

As discussed above, the amendments change the scope of the claims and require further consideration, thus they are not entered. Further, the amendments do not change some of the 112 issues.

Applicant argues that the rejection is unclear and that JP '637 as been cited for the first time.

The examiner points out that the applicants' changes to the claims necessitated the new ground(s) of rejection presented in this Office action. See MPEP § 706.07(a). The obviousness rejection is made over Moore in view of Ueno et al or JP '637 meaning Moore in view of Ueno et al or Moore in view of JP '637. A separate rejection is not required since it is clear that the examiner relies on *either* of the secondary references to teach the conventional use of salt. Puppolo is an optional reference for the rejection since the examiner only relies on Puppolo to demonstrate the inherent features of Moore. Therefore, even if one were to remove Puppolo the inherent features of Moore would still be present, i.e. the water content.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is 571-242-0614. The examiner can normally be reached on M-F (8:00-5:00) every other Friday off.

**THURMAN K. PAGE**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSG